IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 28TH MAY 2007 / 7TH JYAISHTA 1929

Crl.MC.No. 1710 of 2007()

CC.52/2006 of (CRIME NO.1013/05 OF PERINTALMANNA POLICE STATION ON THE FILES OF JUDICIAL FIRST CLASS MAGISTRATE-1, PERINTALMANNA

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PETITIONER/DEFACTO COMPLAINANT:

BULKKEES, D/O.KUNHIMUHAMMED HAJI,
AGED 27 YEARS, KODANADU HOUSE,
VALLAPUZHA AMSOM DESOM, CHOORAKODE P.O.,
PALAKKAD DISTRICT.

BY ADV. SRI.DEVIDAS.U.K

RESPONDENT/STATE:

STATE OF KERALA, REPRESENTED BY THE
SUB INSPECTOR OF POLICE, PERINTALMANNA
THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No. 1710 of 2007

Dated this the 28th day of May, 2007

ORDER

Petitioner is the defacto complainant in a prosecution under Section 498 A I.P.C. Her husband is the sole accused, it is submitted. Proceedings against him were initiated on the basis of a private complaint filed by the petitioner against her husband and others. Final report was filed only against the husband of the petitioner. Cognizance has been taken. During the pendency of the prosecution, parties have allegedly settled their disputes. The petitioner has obtained a divorce from her husband. All payments legally due are arranged for. In these circumstances, the petitioner/divorced wife prays that the prosecution under Section 498 A I.P.C may be quashed.

2. Petitioner's husband has not been arrayed as a party. It is submitted that the husband is employed abroad and efforts to implead him would unnecessarily consume time. It is submitted that the petitioner/divorced wife having harmoniously settled her dispute with her husband, this prosecution may not be permitted to continue. The counsel relies on the decision in **B.S.Joshy v. State of Haryana** [A.I.R (2003) S.C 1386].

3. I am satisfied that the request can be accepted. Notwithstanding the fact that the petitioner's husband has not been

arrayed as a party, I am satisfied that the prayer for quashing of the proceedings made by the petitioner/divorced wife can be allowed.

4. This Crl.M.C is, in these circumstances, allowed. C.C.No.52 of 2006 pending before the Judicial Magistrate of the First Class - I, Perinthalmanna shall stand quashed.

(R.BASANT, JUDGE)

rtr/-